

LAW OFFICE OF GREGORY P. MOUTON, JR., LLC

Gregory Paul Mouton, Jr., Principal

+1 646 706 7481 (t)

+1 646 706 7481 (f)

gmouton@moutonlawnyc.com

May 23, 2022

MEMO ENDORSED

Hon. Edgardo Ramos
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Via ECF

The Clerk of Court is respectfully directed to seal Doc. 92-6. The plaintiff is hereby granted leave to provide an electronic copy of Doc. 92-6 to the Court by CD-ROM. It is SO ORDERED.


Edgardo Ramos, U.S.D.J

Dated: May 23, 2022

New York, New York

Re: *Caraballo v. City of New York*, 18 Civ. 10335 (ER) (SN)

Your Honor:

My office represents Plaintiff David Caraballo in the above-entitled action. In that capacity, I write in follow-up to Plaintiff's opposition to Defendants' motion for summary judgment to respectfully request (1) that the Court seal Docket Entry No. 92-6, and (2) to grant Plaintiff leave to provide the Court an electronic copy of an unfiled version of Docket Entry No. 92-6 by CD-ROM or USB drive.

By way of background, Defendants moved for summary judgment, in large part, on the basis that a settlement from 2018 precludes Mr. Caraballo's lawsuit in the instant matter.

As Your Honor will recall, after approximately three years of litigation, counsel for Defendants, Mostafa Khairy, Esq., represented at the Case Management Conference on February 2, 2022, that he had only become aware of Plaintiff's settlement at Mr. Caraballo's deposition, and that he had conducted an investigation, but could find no evidence of a settlement in their systems. He then contacted the Comptroller's office, which could only provide him with the unexecuted settlement paperwork sent by the Comptroller to Mr. Caraballo's attorney in the settled matter.

At the April 6, 2022, Case Management Conference, Mr. Khairy informed the Court that he had been able to obtain the settlement paperwork from the Comptroller's office. Mr. Khairy noted for the Court that the "settlement paperwork was not even in the [OASIS system]" and that the reason it took so long for him to get it is that the Comptroller's office had to get the physical copy of the paperwork "out of an archive room."

These statements were made to the Court despite the fact that the PDF that contains the settlement paperwork sent by Mr. Khairy to the undersigned on March 28, 2022, has a creation date of January 31, 2022, a date that precedes the conferences noted above. Further, the document notes that it is an "OASIS document" directly contradicting the assertion that the documents were

inaccessible to counsel and his clients; were not in systems accessible to counsel; and that the documents only existed in a physical form in an archive room at the Comptroller's office.

Upon reviewing Docket Entry No. 92-6 to ensure that the metadata remained the same after filing on the ECF system, the undersigned realized that personal information related to Mr. Caraballo had inadvertently not been redacted when filed. As such, it is respectfully requested that the Court direct the clerk to seal Docket Entry No 92-6.

Second, the review revealed that the ECF system had slightly altered the metadata of the PDF. Given this, and as it appears that Defendants will contest the accuracy of the metadata, it is respectfully requested that the Court allow the undersigned to provide the Court with the unfiled copy of Docket Entry No. 92-6 so that the Court can review the metadata for itself.¹

Thank you for your time and consideration of this matter.

Respectfully submitted,

/s/
Gregory Paul Mouton, Jr., Esq.

cc:

Mostafa Khairy, Esq.
New York City Law Department
Attorneys for Defendants
100 Church Street
New York, NY 10007

¹ The metadata of a PDF can be accessed in Adobe Acrobat by (1) opening the PDF in the software, (2) from the top menu selecting "File", and (3) in the menu that drops down selecting "Properties".